As Other States Have Abandoned Efforts, New Jersey Passes Individual Mandate

Several states promised to pass their own mandates. Only one has. What happened?

BY: Mattie Quinn | May 9, 2018

In February, *The Wall Street Journal* reported that, in light of the federal repeal of the individual mandate, nine states and the District of Columbia were looking into implementing their own mandates.

Just three months later, such talk has all but disappeared. As states wrap up their legislative sessions, only New Jersey has passed a bill mandating residents to have health insurance coverage.

The federal mandate, which required every American to have health insurance or face a fine during tax season, was repealed in December as part of the federal overhaul of the tax code. In lieu of dismantling the Affordable Care Act (ACA), Congress targeted the mandate, which was always one of the more controversial pieces of the law.

Now New Jersey's bill reinstates it, with one major exception: Revenue generated from tax penalties will go into a reinsurance program, where it will be used to help insurers pay some of the costliest claims. Offficials, in turn, hope the progrm will help bring down costs for consumers.

The New Jersey Health Insurance Market Preservation Act passed in April and is still awaiting Gov. Phil Murphy's signature -- although his office has said they are moving forward with some of the provisions in the bill. Once signed, the state will also need to get federal approval in the form of a waiver.

With the bill, lawmakers hope to preserve gains made as a result of the mandate. "We're already seeing a decrease in Medicaid enrollment because of the anticipation that the federal mandate is going to go away," says Ray Castro, health policy director at the think tank New Jersey Policy Perspective. "We also have a pretty robust charity care system in New Jersey, which has saved $400 million [since the ACA took effect]."

Lawmakers also wanted to act quickly to avoid the individual mandate being seen as a "new tax" should it be re-implemented down the road. "We didn't want to wait, we wanted to make it as seamless as possible," says Castro. "That's something that other states will run up against if they pass it in the years to come. We're just saying we are maintaining what is the federal status quo."

There is still a possibility that the District of Columbia will enact their own mandate this year. A working group of industry stakeholders, appointed by Mayor Muriel Bowser, unanimously voted to implement one. Now the city council has to weigh in. But even if they approve it, Congress could override the mandate.

Several health experts say that 2018 is a tricky time to pass individual mandate legislation anyway. That's because it's too soon to say how a federal repeal of the law will impact health insurance premiums in the marketplace and uninsured rates.

Early filings among health insurance carriers in states such as Maryland and Virginia show premiums are growing by the double digits. If this uptick continues, it could end up building the case for the individual mandate for 2019, says Sabrina Corlette, a research professor at the Center on Health Insurance Reforms at Georgetown University.

But Corlette cautions against looking at the abandonment of the individual mandate in isolation. While the individual mandate is still a political hot potato, there are several other fixes states are actively considering. "There are a range of things that states are doing to make the marketplace more palatable, like addressing short-term plans and reinsurance programs," she says. "I would not want to suggest that states are doing nothing."